

CALIFORNIA GAMBLING CONTROL COMMISSION

FINAL STATEMENT OF REASONS

Minimum Internal Control Standards (MICS) for Gambling Establishments: Checks, Credit,
ATMs and Unclaimed Property
CGCC-GCA-2007-R-6

HEARING DATE: April 10, 2008

**SUBJECT MATTER OF
PROPOSED REGULATIONS:** Minimum Internal Control Standards (MICS) for Gambling
Establishments: Checks, Credit, ATMs and Unclaimed
Property

SECTIONS AFFECTED: California Code of Regulations, Title 4, Division 18, Chapter 7,
Article 3, Section 12388 and Article 4, Section 12410.

UPDATED INFORMATION:

The Initial Statement of Reasons, issued on January 25, 2008, is included in the file. The information contained therein is updated as follows:

The Gambling Control Act (Act)¹ provides the Commission with jurisdiction over controlled gambling and all activity that is related to the conduct of controlled gambling. The Act assigns the Commission with the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.² In particular, Business and Professions Code section 19801(n) is a statement of legislative intent, wherein the legislature declares that keeping records of cash and credit transactions may be helpful in criminal and regulatory investigations. Further, the Commission is tasked to adopt regulations, which, among other things, would govern the extension of credit, the cashing, deposit and redemption of checks or other negotiable instruments, and the verification of patron identification in monetary transactions.³

This proposed regulatory action adopts Section 12388 concerning the extension of credit, check cashing and the placement of automatic teller machines, and Section 12410, concerning unclaimed or abandoned property.

Industry representatives have indicated to the Commission that allowing patrons to use checks or lines of credit minimizes the amount of cash a patron carries and therefore should be allowed for

¹ Business and Professions Code, section 19800 et seq.

² Business and Professions Code, section 19823

³ Business and Professions Code, sections 19841 and 19905

reasons of personal security (preventing such ills as “follow-home robberies”). The Legislature clearly contemplated allowing checks to be cashed and extensions of credit by mandating the Commission to adopt regulations regarding such and by mandating gambling establishments (cardrooms) to forward copies of all dishonored or uncollectible checks to the Division of Gambling Control on a quarterly basis.⁴

These proposed regulations establish new Section 12388 in Article 3 of Chapter 7, which requires that cardrooms comply with all laws regarding issuance of credit or check cashing. For example, they must provide the patron with a notice of credit denial, the identity of the credit-reporting agency, and written consumer rights, which include a free copy of the consumer’s credit report from the credit-reporting agency.⁵ Further, no one may charge for cashing checks without first obtaining a permit from the Department of Justice.⁶ Identification and credit verification are required to help prevent money laundering.

Section 12388 also requires cardrooms to establish specified policies and procedures regarding the extension and collection of credit, including requirements for: an analysis of the applicant’s credit worthiness; credit must be approved by owners or key employees only; denial of credit to those patrons who have signed a self exclusion form or have self-restricted credit; and for the maintenance of specified credit records. This regulation also prohibits extending further credit to a patron who is delinquent on their payment of a previous extension of credit for more than 90 days.

Section 12388 also requires cardrooms to establish specified policy and procedures for the cashing of patron checks, including requirements for: the denial of check cashing to those patrons who have signed a self exclusion form or have self-restricted check cashing; checks to be written for a specific amount that is within the patron’s check cashing limit; checks to be payable to the cardroom, or in the case of third party checks, endorsed over to the cardroom; patron identification; the maintenance of specified records regarding returned checks; and for the development of procedures regarding the collection of dishonored checks. This regulation also prohibits the cashing of additional checks for a patron with a dishonored check, until the amount is paid in full.

To help prevent the use of government assistance funds for gambling purposes, the cashing of social security, unemployment, disability and public assistance checks is also prohibited by Section 12388.

Section 12388 also contains provisions that restrict the holding or replacement of un-deposited patron checks, without identifying the process as an extension of credit. Many local (city/county) government jurisdictions restrict the extension of credit and/or the cashing of checks. For example, Chapter 16.10 of Title 16 of the Code of Ordinances for the City of San Jose states:

⁴ Business and Professions Code, subsections (d), (g) & (q) of section 19841

⁵ Civil Code, section 1785.20

⁶ Civil Code, section 1789.37

16.10.010 Blank personal checks prohibited.

It is unlawful for the cardroom permittee, owner or employee to hold or cash any personal check or other negotiable instrument that does not state the amount on the face of the check or other negotiable instrument.

(Ord. 25982.)

16.10.020 House credit prohibited.

A. It shall be unlawful for any cardroom permittee, owner or employee to provide loans or credit of currency, checks or any other thing of value or any representation of value to or for the benefit of any person playing a permissible game on the cardroom premises.

B. It shall be unlawful for any cardroom permittee, owner or employee to operate, maintain or purport to maintain any house, player or employee credit system whereby any person may obtain loans or credit of currency, checks or other negotiable instruments, or any other thing of value or any representation of value.

(Ord. 25982.)

16.10.030 Prohibition on credit and loans on premises.

A. It shall be unlawful for any person to seek, obtain, provide, or offer any loan or credit of currency, checks or other negotiable instruments, or any other thing of value or any representation of value on the cardroom premises for use in gambling at the cardroom, except as provided in Subsection B.

B. Subject to approval by the administrator, cardroom permittees may have automatic teller machines for use by patrons and employees on the cardroom premises.

(Ord. 25982.)

Section 12388 also requires that ATMs not be accessible directly from a gambling table. Patrons who wish to use debit or credit cards to access more cash should be able to cross the gaming floor, giving themselves a short break from the gambling table. This is in keeping with Responsible Gaming practices.

Electronic Benefit Transfer (EBT) cards are the “next generation” of public assistance checks. Based upon requests from county social services and the Office of Problem Gambling, this proposed regulation requires that ATM machines in cardrooms be configured to not accept EBTs, since the funds on these cards are to be used for basic needs, such as food and shelter, rather than for entertainment purposes, such as gambling.

The proposed regulations in Section 12388 would protect the greater public at large by helping to discourage the use of credit in gambling by problem gamblers or unqualified persons who may be jeopardizing available funds that would be better spent for the subsistence of themselves and/or their families. These proposed regulations would also help to insure the integrity of the gambling industry by protecting their assets from the adverse effects of bad loans and dishonored checks, and insuring that their income is properly documented. Finally, these regulations would help to prevent identity theft through proper and prudent patron identification procedures.

These proposed regulations also establish new Section 12410 in Article 4 of Chapter 7, which requires that cardrooms establish policies and procedures that comply with California’s

Unclaimed Property Law.⁷ Occasionally, chips or cash may be discovered under a table, cardroom checks may remain un-deposited, or a player's bank may be dormant for a long period of time, and questions have arisen regarding the accounting of such. This regulation allows a cardroom to reconcile these amounts.

A draft of these regulations was discussed at the Gambling Policy Advisory Committee (GPAC) in January 2006, and at a noticed public meeting in February 2006. Further input was received from the California Gaming Association (formerly the Golden State Gaming Association), which has as members the majority of gambling establishments in California.

REQUIRED DETERMINATIONS:

Local Mandate:

A mandate is not imposed on local agencies or school districts.

Small Business Impact:

The Commission has determined that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Some cardrooms may have to modify their internal policies or control mechanisms to comply with these regulations, but this one-time cost would be minimal. Many cardrooms already have compliant policies and procedures in place or are forbidden from offering credit by local ordinance, so no additional costs would be incurred as a result of these regulations. Some cardrooms may be small businesses; the cost effects on these cardrooms are the same as any other affected business.

Consideration of Alternatives:

No reasonable alternative has been considered or otherwise identified and brought to the attention of the Commission.

OBJECTIONS OR RECOMMENDATIONS / RESPONSES:

The following comments/objections/recommendations were made regarding the proposed action, either in writing or orally, during the public comment periods and/or at the public hearing:

A. 45-Day Comment Period and Public Hearing

The following comments were received during the 45-day public comment period (which opened on January 25, and closed at 5:00 p.m. on March 12, 2008) and/or at the public hearing on April 10, 2008:

1. Regarding these proposed regulations in general:

- a. David Fried- Golden State Gaming Association: Recommend that a public workshop be held regarding these regulations.

⁷ Code of Civil Procedure, section 1500 et seq.

This comment/recommendation was accepted and a public hearing was scheduled for April 10, 2008.

2. Regarding these proposed regulations in general:

a. David Fried- Golden State Gaming Association: The Statement of Reasons for these regulations states that dishonored checks are to be sent to the Bureau (Bureau of Gambling Control) every quarter, yet these proposed regulations do not repeat this requirement. Although required by law, is not clear what the Bureau would do with these dishonored checks. These regulations should eliminate this requirement.

This comment/recommendation was rejected because Business and Professions code section 19841(q) clearly requires cardrooms to forward copies of all dishonored checks to the Bureau on a quarterly basis. Further, restating this requirement in regulation would be duplicative, redundant and unnecessary.

3. Regarding Section 12381, which regulates the extension of credit, check cashing, and automatic teller machines (ATMs):

a. Bureau of Gambling Control: In another proposed regulation package, Section 12380(d)(1) defines the various tiers for cardrooms. It has been proposed that this definition include a provision that reads: "Absent a specified tier, this regulation applies to all cardrooms." Without this change to Section 12380(d)(1), there may be confusion about who must comply with Section 12381.

This comment/recommendation was rejected because it is not germane to these proposed regulations. This issue has been addressed in another proposed regulation package (see CGCC-GCA-2008-R-3)

b. Bureau of Gambling Control: A subsection should be added to section 12381 that requires cardrooms to obtain a Department of Justice Check Cashing Permit if they charge a check cashing fee.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add a subsection to Section 12381 that requires a Department of Justice Check Cashing Permit for those cardrooms that charge a check cashing fee.

c. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: A subsection should be added to section 12381 that declares checks and credit documents, that are completed in accordance with this Article, as valid and enforceable instruments.

This comment/recommendation was accepted and the following changes made as part of the first 15-day change: Add a subsection to Section 12381 that declares checks and credit documents, that are completed in accordance with this Article, as valid and enforceable instruments.

4. Regarding Section 12381(a), which allows licensees to extend credit to patrons provided that it is not prohibited by any law, regulation or local ordinance, and requires licensees to establish specified policies and procedures regarding the extension of credit:

a. Bureau of Gambling Control: The regulations should require that the licensee establish specific limits on the amount of credit available by the licensee and determine how the extension of credit will affect its cash flow.

This comment/recommendation was rejected because it goes beyond the scope of these regulations without presenting any reason, justification or authority. The maximum amount of money available by a licensee to lend to patrons should be allowed to fluctuate with the changing financial status of each licensee, as cash flow can change day by day and should not be judged at a single moment. This response is consistent with comments received from Alan Titus- Artichoke Joe's, regarding this subject.

b. Bureau of Gambling Control: The regulations should require licensees to ensure that a credit applicant is not on the voluntary self-exclusion or self-restriction list for problem gamblers. This same recommendation would apply to patrons who are cashing checks.

This comment/recommendation was accepted and the following changes made as part of the first 15-day change: Add a paragraph to subsection (a) that requires the licensee to ensure that credit applicants are not on the voluntary self-exclusion or self-restriction lists for problem gamblers. Also amend Section 12381(g)(1) to require the cage cashier to determine that a patron is not on these same lists prior to cashing a check.

c. Bureau of Gambling Control: The regulations should require licensees to notify patrons that are extended credit of the date of issuance, terms of repayment and interest charges (if applicable). For patrons that are denied credit, a justification for the denial and a copy of any credit report used shall be kept on file and made available to the patron upon request.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add paragraphs to subsection (a) that require licensees to notify patrons that are extended credit of the date of issuance, terms of repayment and interest charges (if applicable). For patrons that are denied credit, require licensees to keep a justification for the denial and a copy of any credit report on file and made available to the patron upon request.

d. Bureau of Gambling Control: The regulations should require that licensees establish written specific policies and procedures on the collection of bad debt, including calls or letters to patrons, self-evaluation and consistent enforcement.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add a paragraph to subsection (a) that requires the licensee to establish specific instructions for the collection of bad debt, including available actions, self-evaluation, and consistent enforcement.

e. Bureau of Gambling Control: The regulations should generally require licensees to receive patron credit applications on written credit application forms.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add the words “credit application forms” to subsection (a).

f. Alan Titus- Artichoke Joe’s: If the majority of the credit that is extended by a cardroom is used to bank games than is not, then the house is taking advantage of the percentage odds in favor of the player-dealer and has an interest in the outcome of the game. This would seem to turn the games into banking and percentage games. These regulations should prohibit the extension of loans to prop players who bank games.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add the following sentences to subsection (a): “A licensee may not extend credit to a gambling business or third party provider of proposition player services that is banking games in any establishment owned by the licensee. A licensee may not extend credit to an employee of the licensee to act as a “house prop player” or “public relations player.”

5. Regarding Section 12381(a)(1), which requires licensees to establish, in policies and procedures, a method for determining the maximum amount of credit which will be advanced to a patron:

a. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: Suggest adding that the club prescribe how to adjust the credit amount and have a policy for repayment terms.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend paragraph (1) to include changes in the credit amount, the maximum time an extension of credit will be outstanding, and repayment terms.

b. Bureau of Gambling Control: The policies and procedures should specify how long an extension of credit will be outstanding.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend paragraph (1) to include changes in the credit amount, the maximum time an extension of credit will be outstanding, and repayment terms.

6. Regarding Section 12381(a)(2), which requires licensees to establish, prior to extending credit to a patron, policies and procedures on the methods of patron identification, along with the receipt of a credit report or the examination of prior credit transactions:

a. David Fried- Golden State Gaming Association: This credit review should only occur once.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend paragraph (2) to read: “Prior to extending credit to a patron for the first time, ensure ...”

b. David Fried- Golden State Gaming Association: In subparagraph (B), a club should be able to extend credit if the patron has a history of credit worthiness or the club can document a reasonable basis for extending credit.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subparagraph (B) to read: "... the patron has paid substantially all credit instruments and/or otherwise document that it has a reasonable basis for extending the amount to the patron."

c. Bureau of Gambling Control: The patron's identification should be an un-expired, government-issued form of identification evidencing residence and bearing a photograph of the patron.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subparagraph (B) and Section 12381(b) to require that patron identification include an un-expired, government-issued form of identification evidencing residence and bearing a photograph of the patron. Also amend Section 12381(g)(2) to require this same form of identification when patrons are cashing checks.

d. Bureau of Gambling Control: Add a subparagraph regarding the receipt of patron information on a credit application form, which includes the patron's name and signature, current address, telephone number, social security number, bank and/or trade references, employment and income information, in order to form an assessment of the patron's character, reputation, financial situation and collateral circumstances. Patrons should also declare any credit extended by other cardrooms, and credit approval information must be held strictly confidential.

This comment/recommendation was accepted (in part), and the following change made as part of the first 15-day change: Add a subparagraph to paragraph (2) which allows for the receipt of patron information on a credit application form, which includes the patron's name and signature, current address, telephone number, social security number, bank and/or trade references, employment and income information, in order to form an assessment of the patron's financial situation and collateral circumstances.

The recommendation that the information form an assessment of the applicant's character and reputation was rejected. The information received about a credit applicant should serve to evaluate their ability to repay the loan, not analyze their character or reputation. These are attributes that are better served in an evaluation for a gambling license, not a loan. Further, the cardroom will have a very limited source of information from which to draw conclusions about a person's character and reputation. This response is consistent with comments received from Alan Titus- Artichoke Joe's, regarding this subject.

The recommendation that patrons should declare any credit extended by other cardrooms and that credit approval information be held strictly confidential was rejected, as these two recommendations are in direct conflict with one another. How would credit information at one cardroom be held as confidential if it must be disclosed to another cardroom? Further, state law regarding the rights to privacy may protect a patron's financial information that

is held by a cardroom. This response is consistent with comments received from Alan Titus-Artichoke Joe's, regarding this subject.

e. Bureau of Gambling Control: When a credit report is used to verify credit worthiness, the cardroom should obtain a signed authorization from the patron to access their credit history.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Require receipt of a signed and dated authorization from the patron to access their consumer credit report from a bona fide credit-reporting agency to show that the patron has an established credit history consistent with approved credit policies.

f. Alan Titus- Artichoke Joe's: Credit worthiness should always be required of credit applicants.

This comment/recommendation was accepted. The changes made above (d. & e.) are directed at helping to determine the credit worthiness of the applicant.

7. Regarding Section 12381(b), which requires that specified information be collected from each patron that is issued credit:

a. Bureau of Gambling Control: The following patron information should also be collected: telephone number, signed credit application, photocopy of a government-issued identification and the means of repayment of obligations.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subsection (b) to include: a telephone number, photocopy of a government-issued identification, and the means of repayment of obligations. Also amend Section 12381(a)(2) to require that a credit application be signed.

8. Regarding Section 12381(c), which prohibits the extension of further credit to patrons who are more than 90 days delinquent on a current loan:

a. Alan Titus- Artichoke Joe's: It's the payment on the account that may be delinquent, not the extension of credit. Also, The regulations should also set a due date for repayment, along with a specific payment schedule.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subsection (c) to read: "If payment upon an extension of credit is delinquent ..." Also amend subsection (a) to require terms of repayment and (b) to require a means of repayment.

9. Regarding Section 12381(d), which prohibits a cardroom from allowing an employee to cash any check that is prohibited by any law, or cash any check drawn against a government fund, unless the check is for wages or the payment of goods or services:

a. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: The Act does not bar employees from cashing checks. Cardrooms cannot control

what employees do off duty. The cashing of tax refund checks should be allowed, as they are not assistance checks.

This comment/recommendation was accepted (in part), and the following change made as part of the first 15-day change: Amend subsection (d) to read: “No gambling enterprise shall permit an employee to cash any check if cashing such a check is prohibited by any statute, regulation, or ordinance. No gambling enterprise employee shall be permitted to cash ...”

The recommendation to allow the cashing of tax refund checks was rejected because these checks are drawn against a government fund and are not exempted by the Act. Business and Professions Code section 19841(q) states that the Commission must:

“(q) Prohibit gambling establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments. However, a gambling establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund. Gambling establishments shall send the department copies of all dishonored or uncollectible checks at the end of each quarter.”

b. Alan Titus- Artichoke Joe’s: The phrase “cash any check” is ambiguous, as it could refer to the employee’s own check. Further, prohibiting the cashing of checks drawn against other government funds is broader than the statute, which refers only to any “federal, state or county fund.”

This comment/recommendation was accepted (in part), and the following change made as part of the first 15-day change: Subsection (d) was amended to clarify that the employee is cashing patron’s checks in the course of their duties (see “a.” above).

The recommendation to delete “other government funds” was rejected because Business and Professions Code section 19841(q) clearly means all government funds by stating “federal, state or county fund.” It is clear that this is intended to include other government funds such as those belonging to cities or local districts, as is clarified by these proposed regulations. Further, Business and Professions Code section 17 states that the word “county includes city and county”, and section 18 states that the word “city includes city and county.”

Since many local (city/county) government jurisdictions restrict the extension of credit and/or the cashing of checks, it goes without saying that these local agencies would object to the cashing of checks that are drawn against their own fund.

10. Regarding Section 12381(e), which considers a licensee to have extended credit to a patron if the licensee does not deposit the patron’s check within three banking days:

a. Alan Titus- Artichoke Joe’s: This regulation should read: ‘... who does not deposit a patron’s check in the bank within three banking days ...’

This comment/recommendation was rejected because it would create a specific requirement that a check be deposited in a bank. Cardrooms may use credit unions or other financial institutions. The term “banking days” would refer to the days that any of these institutions do business, without specifically requiring that a check be deposited in a bank.

b. David Fried- Golden State Gaming Association: A counter check is like a credit instrument and should not be subject to the three-day rule.

This comment/recommendation was rejected because there is no reason given why a counter check should be considered as different from a patron’s personal check; both are equally binding as a draw against the patron’s account. A counter check is merely a check that is supplied by the bank, or in this case, the cardroom. Further, subsection (e) only requires that a patron’s check be considered as an extension of credit if the cardroom doesn’t deposit it within three days. Since the commenter already considers a counter check as an extension of credit, the point is moot. This response is consistent with comments received from Alan Titus- Artichoke Joe’s, regarding this subject.

c. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: Three banking days may not be enough time to replace a check by mail. A patron may give us a check and say “hold this check, I will replace it.” Three days may not be enough time for them to mail a replacement check. We suggest changing the requirement to five banking days.

This comment/recommendation was rejected because the purpose of this regulation is to recognize that, by holding checks, cardrooms are actually extending credit to patrons. Subsection (e) does not prohibit cardrooms from holding checks. It merely requires that a patron’s check be considered as an extension of credit if the cardroom doesn’t deposit it within three days. The extension of credit is prohibited by some local jurisdictions. This response is consistent with comments received from Alan Titus- Artichoke Joe’s, regarding this subject.

This recommendation was rephrased in the second 15-day comment period, and changes were made as a result. Please refer to the comments for Section 12388(e) in the responses for the second 15-day comments.

11. Regarding Section 12381(f), which prohibits a cardroom from allowing a patron to repurchase a personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit:

a. David Fried- Golden State Gaming Association & Alan Titus- Artichoke Joe’s: A patron should be allowed to replace a bounced check. Outlawing this interferes with the commercial practice of trying to collect on a bounced check.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subsection (f) to read: "... shall not allow a patron to repurchase an uncashed personal check ..."

12. Regarding Section 12381(g), which requires licensees, that cash checks for patrons, to establish specific requirements in policies and procedures:

a. Bureau of Gambling Control: The word "written" should precede "policies and procedures."

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subsection (g) to read: "... written policies and procedures, ..."

b. Bureau of Gambling Control: Suggest adding a paragraph that prohibits the cashing of third-party negotiated checks.

This comment/recommendation was rejected because it may prohibit a common practice in this industry (See industry comments for Section 12381(g)(4)). In some cases, it may prohibit patrons from using payroll checks to purchase chips. This could create a hardship for patrons who expect the service. Further, the commenter provided no reason, justification or authority for making a change that goes beyond the scope of these regulations. Cardrooms are still free to make an internal business decision not to cash third party checks. This response is consistent with comments received from Alan Titus-Artichoke Joe's, regarding this subject.

c. Bureau of Gambling Control: Suggest adding a paragraph that requires cardrooms to establish written procedures for the collection of checks that have been returned for non-sufficient funds (NSF), including a point in time when the NSF checks will be written off as bad debt.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Add a paragraph to subsection (g) that requires cardrooms to establish written procedures for the collection of checks that have been returned for non-sufficient funds (NSF), including a point in time when the NSF checks will be written off as bad debt.

Mr. Alan Titus- Artichoke Joe's made a comment regarding this subject that suggested a specific uniform policy be adopted as to when NSF checks would be written off as bad debt. This comment was rejected because this regulation is meant to allow the licensee discretion as to when dishonored checks are written off as bad debt. This regulation requires that the licensee only establish written procedures. The content of those procedures is left to the discretion of the licensee.

13. Regarding Section 12381(g)(1), which requires the cage cashier to determine that the cashing of a check is not prohibited:

- a. Bureau of Gambling Control: Suggest adding language that requires the cage cashier to determine that the check: conforms to the licensee's approval process, is for a specific amount that is within an established limit, is payable to the cardroom, currently dated, and is payable on demand by the cardroom.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend paragraph (1) to require the cage cashier to determine that the check: conforms to the licensee's approval process, is for a specific amount that is within an established limit, is payable to the cardroom, and is currently dated.

14. Regarding Section 12381(g)(3), which requires the accounting department or owner to maintain specified records of all returned checks:

- a. Bureau of Gambling Control: The language should read: '... maintained by the gambling establishment or owner ...'

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend paragraph (3) to read: "... maintained by the gambling establishment ..."

- b. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: Some clubs keep dishonored checks in the cage, not in the accounting department.

This comment/recommendation was accepted. See "a." above for changes.

- c. Bureau of Gambling Control: Cardrooms should maintain a list of all checks that have been returned for non-sufficient funds (NSF).

This comment/recommendation was rejected because this paragraph already requires cardrooms to maintain specific information about returned checks; see subparagraphs (A) through (E). Also, Business and Professions code section 19841(q) already requires cardrooms to send copies of all dishonored checks to the Bureau on a quarterly basis. This response is consistent with comments received from Alan Titus- Artichoke Joe's, regarding this subject.

15. Regarding Section 12381(g)(4), which prohibits cardrooms from cashing additional checks for a patron with a dishonored check until the amount is paid in full:

- a. David Fried- Golden State Gaming Association, California Grand Casino & Oaks Card Club: A patron should be able to replace a dishonored third party or two-party check with a personal check.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Include a statement in paragraph (4) which allows a person who presented a dishonored check from a third party or a dishonored two-party check to replace the check.

16. Regarding Section 12381(h), which prohibits ATMs from being accessible to a patron while seated at a gambling table:

- a. David Fried- Golden State Gaming Association: This regulation should have an exception to avoid liability for denying a disabled patron access to an ATM.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend subsection (h) to include an exception for persons covered under the Americans with Disabilities Act.

17. As part of the first 15-day changes, the Commission also made the following technical non-substantive changes to Section 12381:

- a. To avoid conflict with another regulation package, new Section 12381 was renumbered to 12388.
- b. To correct a numbering/lettering error, subparagraphs (A) through (F) in section 12381(b) were corrected to paragraphs (1) through (6).
- c. Other numbering and lettering changes were made to conform to the amendments of this section.

18. Regarding Section 12410, which requires licensees to establish policies and procedures that comply with California's Unclaimed Property Law, and to deposit any unclaimed money that does not apply to this law into the Gambling Addiction Program Fund:

- a. Bureau of Gambling Control: The licensee should establish written policies and procedures.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Amend Section 12410 to read: "... establish written policies and procedures ..."

- b. Bureau of Gambling Control: According to California's Unclaimed Property Law, all unclaimed property must be reported to the State Controller's Office. The provisions of Section 12410 that require the licensee to deposit unclaimed money into the Gambling Addiction Program Fund should be deleted.

This comment/recommendation was accepted and the following change made as part of the first 15-day change: Delete the provisions of Section 12410 that require the licensee to deposit unclaimed money into the Gambling Addiction Program Fund.

B. First 15-Day Change Comment Period

The following comments were received during the first 15-day change comment period, which opened on September 22, and closed at 5:00 p.m. on October 8, 2008:

1. Regarding these proposed regulations in general:

- a. Bureau of Gambling Control: Bureau staff has reviewed the draft regulation text and respectfully support the adoption of this regulation.

This expression of support was accepted and considered in the adoption of the proposed action.

2. Regarding Section 12388, which establishes minimum internal control standards (MICS) for gambling establishments regarding checks, credit and ATMs:

- a. Charles Bates, Bay 101- to aid in comprehension, section 12388 should be separated into three subparagraphs: Credit, Check Cashing and ATM's.

This comment/recommendation was rejected because it is not germane to this first 15-day change. Additionally, separate subsections already divide these subjects.

3. Regarding Section 12388(a), which prohibits a licensee from extending credit to a gambling business or third party provider of proposition players services that is banking games, or to an employee of the licensee to act as a "house prop player" or "public relations player":

- a. Charles Bates- Bay 101: Would read easier if subsection (a) were divided into two major subparagraphs, one for credit conditions and the other for specific credit policies.

The comment/recommendation was rejected because it is not germane to this first 15-day change. Further, this recommendation would require that the introductory statement for subsection (a) be unnecessarily repeated.

- b. Charles Bates- Bay 101: The last sentence in the introductory portion of (a) contains redundant language after the word "requirements". There should just be a colon (:) after the word "requirements".

The comment/recommendation was rejected because is not germane to this first 15-day change. Further, the language is not redundant. The beginning of the sentence discusses the issuance of credit, whereas the subject changes to the extension and collection of credit towards the end.

- c. David Fried- Golden State Gaming Association: The restriction from extending credit to prop players should be removed. The Act shows no intention to outlaw this activity. Extending credit reduces the need for players to carry cash. There is no legal reason not to apply the same credit rules to prop players as is applied to regular players. Further, the house does not occupy the player-dealer position because the loan repayment is fixed. Accordingly, the second and third sentences in subparagraph (a) should be removed.

This comment/recommendation was rejected. If the majority of the credit that is extended by a cardroom is used to bank games than is not, then the house may be taking advantage of the percentage odds in favor of the player-dealer and may have an interest in the outcome of the game. This may turn the games into banking and percentage games.

Business and Professions Code section 19801 declares that:

...
(h) Public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture and distribution of permissible gambling equipment.
 ...

Allowing a gambling establishment to loan money to a third-party proposition player (TPP) or gambling business for the purposes of participating in a controlled game may result in the patron's belief that the TPP represents the house. Since the TPP participates in the game, it might appear to patrons that the house is participating in the game, which is prohibited by Business and Professions Code section 19984(a), which states in part:

"... in no event shall a gambling establishment or the house have any interest, whether direct or indirect, in funds wagered, lost, or won."

To help reinforce this provision, in accordance with Business and Professions Code section 19984(c), the Commission has established California Code of Regulations, Title 4, Division 18, Chapter 2.1, Section 12200.7(e), which states:

(e) A proposition player contract shall be consistent with the provisions of Business and Professions Code section 19984, subdivision (a), prohibiting a gambling establishment or the house from having any interest, whether direct or indirect, in funds wagered, lost, or won. No proposition player contract shall be approved that would permit the house to bank any game in the gambling establishment.

These statutes and regulations are clear attempts to avoid any inference to the public that the house (gambling establishment) may be banking games through a TPP or gambling business, which is prohibited by Penal Code section 330 and Business and Professions Code section 19806.

d. David Fried- Golden State Gaming Association: The reference to the term "banking games" in (a) should be replaced with the term "player-dealer games", which is more consistent with the Act.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Subsection (a) was amended to read: "... A licensee may not extend credit to a gambling business or third party provider of proposition player services that is occupying a player-dealer position in any gambling establishment owned by the licensee..."

4. Regarding Section 12388(a)(2), which sets conditions prior to extending credit to patrons, including examination of government-issued ID's and one of the following: (A) A credit application, or (B) a credit report, or (C) prior credit transaction records with the cardroom:

a. Charles Bates- Bay 101: The phrase “another acceptable method of identification” should be reinstated into paragraph (2). Cardrooms should be allowed to accept other forms of ID such as: driver’s license, military, passport, alien registration, state-issued ID’s, cedular cards (issued by foreign countries), or other foreign country ID’s.

This comment/recommendation was rejected, as the examples of alternative and acceptable ID’s that were provided by this commenter are all government-issued, and would be allowed by the regulation’s current language.

b. Alan Titus- Artichoke Joe’s & Charles Bates- Bay 101: The introductory to paragraph (2) requires that only *one* of three conditions be met prior to extending credit to patrons. However, the first condition in the new subparagraph (A), and the new first sentence in Subparagraph (B) require no credit worthiness. They simply require that the patron submit a credit application or a written credit report authorization. The original intent of this paragraph is undermined, since these acts do not determine credit worthiness.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Amend paragraph (2) to read: “... In addition, ensure that the patron is credit worthy through an assessment of one of the following.”

c. Alan Titus- Artichoke Joe’s: Adding the term “if any” to subparagraph (C) introduces ambiguity. If there were no previous records of credit transactions between a cardroom and patron, would this condition still apply?

This comment/recommendation was rejected. Removal of the term “if-any” would result in more ambiguity. This term acknowledges that there may be no prior credit transaction records.

d. Alan Titus- Artichoke Joe’s: The phrase “paid substantially all credit instruments” in subparagraph (C) is ambiguous. This condition should require timely payments, and complete repayment if applicable.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Amend subparagraph (C) to read: “... showing that the patron has paid in a timely manner all credit ...”

e. Alan Titus- Artichoke Joe’s: The phrase “reasonable basis for extending” credit in subparagraph (C) is not sufficient. This phrase should be replaced with determined “credit worthiness”.

This comment/recommendation was accepted; see “b.” above for change.

f. Charles Bates- Bay 101: Suggest adding the word “credit” to the second part of subparagraph (C), after the word “extending”.

Even though this comment is not germane to this 15-day change, the recommendation was accepted and the following change made as part of the second 15-day change: Add the word “credit” after “extending the” in subparagraph (C).

5. Regarding Section 12388(a)(5), which requires terms for the notification to a patron regarding the issuance or denial of credit, including a justification for the denial of credit:

a. Alan Titus- Artichoke Joe's: If credit is issued, paragraph (5) should require the patron to sign a loan agreement.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Add paragraph (8) to require a patron's signature on a credit agreement.

b. Charles Bates- Bay 101: If a patron is denied credit, instead of justifying the denial, paragraph (5) should read: "...notification shall include the notice required by the Fair Credit Reporting Act". A business may deny credit, as long as their decision is not discriminatory. This regulation should not expose cardrooms to additional risk in denying credit.

This comment/recommendation was accepted (in part), and the following change made as part of the second 15-day change: Amend the last sentence of paragraph (5) to read: "If the patron is denied credit, and the denial is based, in whole or part, on any information contained in a consumer credit report, the licensee shall comply with Civil Code section 1785.20."

When credit is denied, and the denial is based upon information received as part of a consumer credit report, section 1785.20 requires the cardroom to provide the consumer with: a notice of the denial, the identity of the credit reporting agency, and written consumer rights, which include a free copy of the consumer's credit report from the credit reporting agency.

c. David Fried- Golden State Gaming Association: Recommend deleting the third sentence in paragraph (5). There is no reason to require that cardrooms justify a denial of credit. A legal action may require disclosure of written denial letters and subsequent notification to patrons that their information is going to a third party.

This comment/recommendation was accepted (in part); see "b." above for response.

6. Regarding Section 12388(a)(6), which requires cardrooms to retain credit reports and make them available to a denied patron:

a. Charles Bates- Bay 101: Paragraph (6) should be deleted. Maintaining these files would be a burden, without any complementary benefit for the cardroom.

This comment/recommendation was accepted (in part), and the following change made as part of the second 15-day change: As per Civil Code section 1785.20, remove the requirement that cardrooms make a copy of the credit report available to a denied patron upon request.

The cardroom would already have a file for the credit application. Placing the credit report in that file should not be a burden. Retention of this file, for reference, would be in the cardroom's best interest.

7. Regarding Section 12388(a)(7), which requires cardrooms to have a policy on the collection of bad debt, which must address specified issues:

a. David Fried- Golden State Gaming Association: Recommend removal of paragraph (7). Terms such as "specific instructions", "self evaluation" and "consistent enforcement" are unclear. Cardrooms need discretion on the collection of bad debt. If anything, this regulation should simply require cardrooms to document their collection efforts.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Amend paragraph (7) to simply require that cardrooms document their efforts to collect on delinquent credit accounts.

8. Regarding Section 12388(b), which requires cardrooms to collect and maintain specified information on each patron that is issued credit:

a. David Fried- Golden State Gaming Association: Should only require the collection of information in paragraphs (1) through (4) on the first time that credit is extended. The cardroom will already have this information for a subsequent request that is within the limits of an existing approval. Paragraphs (5) and (6) should be moved up to subsection (a).

Even though this comment is not germane to this first 15-day change, the recommendation was accepted and the following change made as part of the second 15-day change: Amend the introductory portion of subsection (b) to read: "For each patron that is issued credit for the first time, the following..." Also, move paragraphs (5) and (6) to the new paragraph (8) in subsection (a).

9. Regarding Section 12388(c), which prohibits extending additional credit to a person who is delinquent in their existing loan payments by more than 90 days:

a. Alan Titus- Artichoke Joe's: Regulations should require monthly loan payments, require that principal payments be in the same amount each month, and limit the time in which a loan can be repaid.

This comment/recommendation was rejected because it is not germane to this first 15-day change. Further, these proposed changes would substantially limit the licensee's discretion on the terms of loan agreements.

10. Regarding Section 12388(d), which prohibits a cardroom from allowing an employee to cash any check that is prohibited by any law, or cash any check drawn against a government fund, unless the check is for wages or the payment of goods or services:

a. Alan Titus- Artichoke Joe's: The first sentence in subsection (d) is unnecessary, as a law would already prohibit the cashing of the check.

This comment/recommendation was rejected because it is not germane to this first 15-day change.

b. Alan Titus- Artichoke Joe's: Subsection (d) is unclear whether an employee is prohibited from cashing their own check, or from cashing a patron's check.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Delete the words "permit an employee to" from subsection (d), thus prohibiting the cardroom from cashing checks that are prohibited by law. This subsection was never intended to prohibit employees from cashing their own checks. Prohibiting the cardroom from cashing prohibited checks would include employees who are cashing patron's checks in the performance of their duties.

c. David Fried- Golden State Gaming Association: Subsection (d) should limit itself to the cashing of checks by the cardroom, as does B & P 19841(q). Management can't control what an employee cashes while off duty.

This comment/recommendation was also made in the 45-day comment period. Both comments were accepted and changes made as part of the second 15-day change. See "b." above for changes.

d. Charles Bates- Bay 101: This subsection should begin a new subject regarding "checks".

The comment/recommendation was rejected because it is not germane to this first 15-day change. Further, separate subsections already divide the subjects.

11. Regarding Section 12388(e), which states that a cardroom is considered to have extended credit to a patron if the patron's check has not been deposited within three days:

a. David Fried- Golden State Gaming Association: Suggest changing to "three banking days after receipt". This will allow sufficient time for the patron to provide a replacement check for the one that the cardroom knows will bounce.

Although this comment is not germane to this first 15-day change, a similar recommendation was made in the 45-day comment period. As a result, both comments were accepted and the following change made as part of the second 15-day change: Amend subsection (e) to read: "...does not deposit a patron's check within three banking days after receipt shall have..."

12. Regarding Section 12388(f), which prohibits a cardroom from allowing a patron to repurchase an uncashed personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit:

a. Charles Bates- Bay 101: Recommend adding the words "redeem, reclaim or" before the word "repurchase". This will help to broaden the terminology for a better understanding.

Although this comment is not germane to this first 15-day change, the recommendation was accepted and the following change made as part of the second 15-day change: Add the words “redeem, reclaim or” before the word “repurchase” in subsection (f).

b. Charles Bates- Bay 101: The words cashed/uncashed are usually used when a patron redeems a check for chips. Subsection (f) is meant to restrict the replacement of checks that the cardroom has not deposited with the bank. The words “*un-deposited or in-process*” should be used in replacement of “uncashed”.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: In subsection (f), replace the words “uncashed personal check” with the words “un-deposited personal check”. In section 12410, replace “uncashed check” with “un-deposited check”.

c. David Fried- Golden State Gaming Association: The words “uncashed personal check” could include a bounced check. Consider replacing with the words “held personal check”.

This comment/recommendation was accepted; see “b.” above for changes.

d. Charles Bates- Bay 101: Check cashing is separate and distinct from the extension of credit; the two should not be interlaced. After the word “unless”, recommend replacing existing language with: “the subsequent check or checks reduces the outstanding liability on the previously presented check or checks”. The subsequent check is often used to consolidate several previous checks.

The comment/recommendation was rejected. This regulation is meant to bridge the gap between check cashing and credit. Its purpose is to recognize that, by holding checks, cardrooms are actually extending credit to patrons. The extension of credit is prohibited in some local jurisdictions.

13. Regarding Section 12388(g)(1), which states that if a cardroom cashes checks for patrons, they must establish written and specified policies and procedures, including: That the cage cashier ensure that the patron has not signed a self-exclusion or self-restriction form, that the check has the current date, and that the check is made payable to the cardroom:

a. David Fried- Golden State Gaming Association: In paragraph (1), “cage cashier” should be changed to “designated employee”. Some cardrooms have a shift or credit manger do this.

Although this comment is not germane to this first 15-day change, the recommendation was accepted and the following change made as part of the second 15-day change: Change “cage cashier” to “designated employee” in paragraph (1).

b. Charles Bates- Bay 101: Subparagraph (A) causes an unreasonable burden, as not all cardrooms have access to statewide self-exclusion/self-restriction information. Recommend that it read: “The licensee’s records do not contain a notice that ...”

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Amend subparagraph (A) to read: “The licensee’s records do not contain information reflecting that the patron presenting the check has signed a ...” CCR Title 4, Sections 12463(a)(3) & 12464(a)(2) require that cardrooms maintain and update a list of self-excluded and self-restricted persons. No statewide list is required or is available.

c. Charles Bates- Bay 101: Subparagraph (D) should not require that a check contain the “current date” because well-known customers may have checks that are antedated, and because most paychecks are not dated at all. Further, this subparagraph should include the word “customer’s” before the word “established” and the word “cashing” after the word “check”.

This comment/recommendation was accepted (in part), and the following change made as part of the second 15-day change: Amend subparagraph (D) to read: “The check is for a specific amount and within the patron’s established check cashing amount limit, and, in the case of a personal check, includes the current date, and,”

The pre-dating of personal checks should not be allowed, as this would conflict with other regulations that rely upon the check’s date as an indicator of the date of receipt. See Section 12388(e).

d. David Fried- Golden State Gaming Association: Subparagraph (E) should allow for a check to be “endorsed” over to the cardroom, as would be in the case of a cashier’s check made out to cash, or a payroll check:

This comment/recommendation was accepted (in part), and the following change made as part of the second 15-day change: Amend subparagraph (E) to read: “The check is payable to the gambling establishment, or in the case of a third party check, endorsed over to the gambling establishment”.

The recommendation that a cardroom be allowed to receive a check made out to cash was rejected because this may reduce the Bureau’s ability to conduct an audit of the funds received by the cardroom. Checks made out to cash may not be traceable to a transaction that occurred at the cardroom because they don’t have the cardroom’s name on them. These checks could easily be diverted away from the cardroom’s accounting books, with little or no trace. Further, making checks out to cash could also be used as an unscrupulous strategy to disguise the fact that a cardroom is extending credit or cashing checks in a local jurisdiction where the process may be prohibited.

14. Regarding Section 12388(g)(2), which states that if a cardroom cashes checks for patrons, they must establish written and specified policies and procedures, including a requirement that the licensee or designated employee examine an unexpired government-issued photo identification of the patron. If the patron has not been approved for credit, identification information shall also be recorded:

a. Alan Titus- Artichoke Joe’s: Paragraph (2) should require identification only upon the first time a check is presented. At Artichoke Joe’s, identifications are scanned into a

computer when a patron offers a check for the first time. The scanned document, including a photo, is then retrieved for subsequent check cashing transactions.

This comment/recommendation was accepted and the following change made as part of the second 15-day change: Add the following sentence to paragraph (2): “If the patrons identification information is already on file with the licensee, which includes a photo of the patron, then retrieval and examination of this identification file by the licensee or designated employee shall satisfy the provisions of this paragraph.”

b. David Fried- Golden State Gaming Association: Paragraph (2) should be only for those patrons who are cashing checks for the first time. Most cardrooms already have this information on file for patrons that have been approved for check cashing.

This comment/recommendation was accepted; see “a” above for changes.

15. Regarding Section 12388(g)(4), which states that when a first-party check is dishonored, cardrooms must prohibit that person from cashing additional personal checks until the amount owed is paid in full. Does not prohibit a person from replacing dishonored third party checks or two-party checks:

a. Charles Bates- Bay 101: The term “*first-party*” check should be deleted from paragraph (4), as its meaning is unclear. Any dishonored check should result in the denial of check cashing privileges in accordance with the licensee’s check cashing procedures. The terms “third party” and “two-party” check need to be defined, as their use in the last sentence of paragraph (4) is confusing. Recommend this sentence read: “This does not prohibit a patron from replacing or “making good” a presented check with a subsequent check in accordance with the policies and procedures of the licensee.”

This comment/recommendation was accepted in part. Use of the term “first-party” is not germane to this first 15-day change. However, paragraph (4) should be clarified and simplified by deleting the various types of checks. The purpose of this regulation is to simply limit a patron’s ability to cash additional checks until a dishonored check is paid, and to permit that payment to be in the form of a replacement check. To help to clarify and focus this regulation, the following change was made as part of the second 15-day change: Amend paragraph (4) to read: “If a [] check is dishonored, the person who proffered the check shall be prohibited from cashing additional [] checks until the amount owed is paid in full, but may replace the dishonored check in accordance with the policies of the licensed gambling establishment.[]”

16. Regarding Section 12388(g)(5), which requires licensees to have procedures for the collection of dishonored checks, including a point in time that they would be written off as bad debt:

a. Charles Bates- Bay 101: Licensees should be allowed the discretion to manage their debt collection, including when to declare assets as un-collectible. Predicting when to write off a check as bad debt is burdensome.

This comment/recommendation was rejected. As written, paragraph (5) already allows the licensee discretion to determine when dishonored checks are written off as bad debt. This regulation requires that the licensee only establish written procedures. The content of those procedures is left to the discretion of the licensee.

17. Regarding Section 12388(j), which prohibits a licensee from having an ATM that is accessible by a patron who is still seated at a gaming table, except where required by the Americans with Disabilities Act:

a. Charles Bates- Bay 101: This subsection should begin a new subject about “ATM’s”.

This comment/recommendation was rejected because it is not germane to this first 15-day change. Further, separate subsections already divide the subjects.

18. Regarding Section 12410, which requires licensees to establish policies and procedures regarding unclaimed property, including chips, cash and cash equivalents:

a. Charles Bates- Bay 101: The term “cash equivalents” should be defined.

This comment/recommendation was rejected because it is not germane to this first 15-day change. Further, this term is commonly used in the world of business and finance and well defined to mean: Highly liquid investments that are readily convertible to known amounts of cash, such as money market funds, short-term government bonds or treasury bills.

C. Second 15-Day Change Comment Period

The following comments were received during the second 15-day change comment period, which opened on December 9, and closed at 5:00 p.m. on December 24, 2008:

1. Regarding Section 12388(a), which prohibits a licensee from extending credit to a gambling business or third party provider of proposition players services that is occupying a player-dealer position, or to an employee of the licensee to act as a “house prop player” or “public relations player”:

a. David Fried- California Gaming Association (formerly the Golden State Gaming Association): This section contains a new substantive restriction that a licensee cannot extend credit to an employee to act as a proposition player or public relations player, or to a proposition player services in player-dealer games. Employees and third party proposition players should have the same credit rules as any other person. In these cases, the house does not occupy the player-dealer position because the loan repayment is fixed. Although clubs do not, as a matter of course, extend credit to third party proposition player services, they should have the right to do so if the credit is repaid within two banking days.

This comment/recommendation was rejected because it is not germane to the specific second 15-day changes to subsection (a). This subsection has contained this same general requirement since its original introduction in the first 15-day change period. The changes made in this second 15-day period are minor in scope, only clarifying and replacing the

term “banking games” with the phrase “occupying a player-dealer position”; changes which were made at the request of this commenter.

This commenter made similar recommendations in the first 15-day comment period that would allow cardrooms to extend credit to third party proposition players. Please see the response to comment 3.c. in the previous section entitled “First 15-Day Change Comment Period.”

2. Regarding Section 12388(a)(2), which requires licensees to establish, prior to extending credit to a patron, policies and procedures regarding the identification and credit worthiness of the patron. These policies and procedures must also ensure that the patron is credit worthy by assessing the patron’s credit information on a credit application, credit report or previous credit transaction:

a. Andrew Schneiderman- Commerce Casino: This paragraph requires that the licensee positively identify a patron who is applying for credit. This sets an unachievable standard, since some persons may go to great lengths to disguise their identity. Suggest using the words reasonably identify.

This comment/recommendation was rejected because it is not germane to these second 15-day changes.

b. Alan Titus- Artichoke Joe’s: Subparagraph (A) should be more specific about the type of information that is required, such as an evaluation of liabilities and expenses.

This comment/recommendation was rejected because it is not germane to these second 15-day changes.

c. Alan Titus- Artichoke Joe’s: The first option in subparagraph (B) only requires the cardroom to obtain written authorization to access a credit report; it does nothing to actually receive a credit report.

This comment/recommendation was rejected because it is not germane to these second 15-day changes. Further, the first option in subparagraph (B) states that the credit report must “... show the patron has an established credit history consistent with approved credit policies...”

3. Regarding Section 12388(a)(6), which requires that a copy of any consumer credit report obtained by the licensee shall be kept on file with the cardroom:

a. David Fried- California Gaming Association: This regulation should require that a credit report be kept on file only in those cases where credit is granted, and only for as long as the account is active.

This comment/recommendation was rejected because it is not germane to the specific second 15-day changes to paragraph (6). The second 15-day changes made to this paragraph removed the requirement that a copy of the credit report be made available to a

denied patron upon request. This subsection has contained the requirement that credit reports must be kept on file since the first 15-day change period.

4. Regarding Section 12388(c), which prohibits extending additional credit to a person who is delinquent in their existing loan payments by more than 90 days:

a. Alan Titus- Artichoke Joe's: As written, this regulation would allow a cardroom to modify the terms of a loan to drag out the payments and erase the deficiency. Since this regulation does not prohibit demand notes, the cardroom could also never demand payment. The Commission should set minimum standards on payment schedules, or this regulation is meaningless.

This comment/recommendation was rejected because it is not germane to these second 15-day changes. Further, these regulations already contain many provisions that require cardrooms to declare terms and payment schedules in the extension of credit (see Sections 12388(a)(1) & (a)(8). Additional restrictions on loan agreements to the degree recommended by this commenter may not be flexible enough for the business model of many cardrooms.

5. Regarding Section 12388(f), which prohibits a cardroom from allowing a patron to redeem, reclaim or repurchase an un-deposited personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit:

a. Charles Bates- Bay 101: Places an unneeded financial burden on patrons by prohibiting them from buying back a check with their winnings or a combination of chips, cash and a smaller check. Bay 101 recommends allowing a personal check to be replaced with another personal check if the outstanding liability is reduced.

This comment/recommendation was rejected because it is not germane to the specific second 15-day changes to subsection (f). This subsection has contained this same general requirement since its original introduction in the 45-day comment period. Further, subsection (f) only requires that a patron be approved for credit in order to replace a personal check; it does not prohibit the process of replacing the check. As stated in earlier responses, this regulation is meant to recognize that, by holding checks, cardrooms are actually extending credit to patrons. The extension of credit is prohibited in some local jurisdictions.

b. David Fried- California Gaming Association: Patrons should be allowed to replace personal checks with a combination of chips and a personal check for the balance. Should allow checks to be replaced within the same day (or next day) that they are written.

This comment/recommendation was rejected because it is not germane to the specific second 15-day changes to subsection (f). See response in "a." above.

6. Regarding Section 12388(g)(1)(E), which requires that checks be made payable to the cardroom; or in the case of a third party check, endorsed over to the cardroom:

a. David Fried- California Gaming Association: A patron should be allowed to make a check out to cash. This helps to protect the cardroom against bounced checks and keeps the patron from stopping payment.

This comment/recommendation was rejected because it is not germane to the specific second 15-day changes to subparagraph (E). This subparagraph has contained the requirement that checks be made payable to the cardroom since the first 15-day change period. The second 15-day change made to this subparagraph merely allows for the possibility of third party checks that would be endorsed over to the cardroom, rather than initially being made payable to them; changes which were made at the request of this commenter.

Regarding the recommendation that would permit checks to be made out to cash, please see the response to a similar recommendation made by this commenter during the first 15-day change period, comment 13.d.

7. Regarding Section 12388(g)(2), which states that if a cardroom cashes checks for patrons, they must establish written and specified policies and procedures, including a requirement that the licensee or designated employee examine an unexpired government-issued photo identification of the patron. If the patron has not been approved for credit, identification information shall also be recorded. If the patron's identification information is already on file with the licensee, which includes a photo of the patron, then retrieval and examination of this identification file by the licensee or designated employee satisfies the provisions of this paragraph:

a. David Fried- California Gaming Association: If a patron is approved for check cashing, the cardroom should not have to record the same information, such as a driver's license number, each time a check is cashed. Some cardrooms may not have patron photos in their computer files. Suggest that the regulation merely confirm the identity of the person if their information is already on file.

This comment/recommendation was rejected because the regulation already allows the cardroom to bypass the necessity to record identifying information if the patron is either: approved for credit, or their identifying information is already on file. If a cardroom already has a patron's information on file, and that file contains a photo of the patron, then there is no need to ask for any identification from the patron, as an examination of the photo on file will suffice. Placing a photo identification into an electronic file is as simple as scanning the patron's drivers license. If hard copy files are used, a photocopy will do. This second 15-day change was made at the request of industry to provide a simplified process for regular customers that would bypass the need to examine and record patron identification information.

D. Commission Meeting of January 8, 2009

The following comments were received during the Commission meeting of January 8, 2009:

1. Regarding Section 12388(a)(2), which requires licensees to establish, prior to extending credit to a patron, policies and procedures regarding the identification and credit worthiness of

the patron. These policies and procedures must also ensure that the patron is credit worthy by assessing the patron's credit information on a credit application, credit report or previous credit transaction:

- a. Alan Titus- Artichoke Joe's: Subparagraph (A) should be more specific about the type of information that is required, such as an evaluation of additional liabilities.

This same comment was made during the second 15-day change period. Please see the response to comment 2.b. under the above section entitled "Second 15-Day Change Comment Period."

- b. Alan Titus- Artichoke Joe's: The first option in subparagraph (B) only requires the cardroom to obtain written authorization to access a credit report; it does nothing to actually receive a credit report. The "or" should be removed between the two options.

This same comment was made during the second 15-day change period. Please see the response to comment 2.c. under the above section entitled "Second 15-Day Change Comment Period."

- 2. Regarding Section 12388(c), which prohibits extending additional credit to a person who is delinquent in their existing loan payments by more than 90 days:

- a. Alan Titus- Artichoke Joe's: As written, this regulation would allow a cardroom to modify the terms of a loan to drag out the payments and erase the deficiency. Since this regulation does not prohibit demand notes, the cardroom could also never demand payment. The Commission should set minimum standards for payment terms.

This same comment was made during the second 15-day change period. Please see the response to comment 4.a. under the above section entitled "Second 15-Day Change Comment Period."

- 3. Regarding Section 12388(f), which prohibits a cardroom from allowing a patron to redeem, reclaim or repurchase an un-deposited personal check and replace it with another personal check, unless the patron is approved for credit and the amount of the check to be replaced is within the patrons approved credit limit:

- a. David Fried- California Gaming Association: Patrons should be allowed to replace or redeem personal checks using a combination of chips and another personal check.

This same comment was made during the second 15-day change period. Please see the response to comments 5.a. & 5.b. under the above section entitled "Second 15-Day Change Comment Period."

- 4. General:

- a. David Fried- California Gaming Association: Mr. Fried provided the Commission with a written outline of his comment presentation. Part I of this document presents the results of an 18-cardroom survey, the results of which claim that 60% of cardrooms accept checks

and/or credit, while 40% do not. Part II claims that most cardrooms prefer cash transactions, and that they consider customer loyalty and service when deciding to cash checks or extend credit. Part III presents comments or recommendations that are similar to those presented in the second 15-day change period, and also recommends that the Commission delay implementation of these proposed regulations for six months to allow time for the development of new systems. Part IV makes two statements: That not every cardroom has the same issues, nor should every owner be required to reach the same business judgment, and that cardrooms should be allowed to modify their debt in order to get paid.

Parts I and II of this document merely present the results of a survey and do not make any resulting recommendations. Part III of this document makes the same comments that were made during the second 15-day change period. Please see the response to these comments under the above section entitled “Second 15-Day Change Comment Period.” The comment that recommends a six month delay in the implementation of these regulations was accepted by the Commission, but modified to a three month delay. The comments in Part IV were accepted in support of the Commission’s response to comments made by Mr. Alan Titus regarding his desire to further structure and restrict the terms of loan agreements. See comment 2.a. above and comment 4.a. under the section entitled “Second 15-Day Change Comment Period” for the Commission’s response to Mr. Titus’ recommendation.

There were no further comments, objections or recommendations received regarding the modified language of the proposed action.